

Framework for EPA's Regulatory Decisions Bay Delta Water Quality Control Plan (Phase 1)

Under Section 303 (c) of the Clean Water Act, EPA is required to review and approve or disapprove any new or revised water quality standards adopted by a state. To approve water quality standards, EPA must find that the new or revised standards fully protect the most sensitive designated uses of the applicable water bodies. If EPA disapproves those new or revised water quality standards, EPA must specify the necessary changes, and if the state does not adopt appropriate changes addressing EPA's concerns, EPA must "promptly propose" new or revised federal standards.

The California State Water Resources Control Board (State Board) is working toward adoption of new and revised flow and salinity criteria for the southern Delta, and the lower San Joaquin River and its three salmon bearing tributaries -- the Merced, Tuolumne, and Stanislaus rivers.

In this case, the State Board has proposed both a narrative flow objective (see below) and a 'program of implementation' (see below) that includes numeric flow criteria. EPA needs to determine, based on the final action of the State Board, which provisions constitute "new or revised water quality standards" requiring EPA's review. Our preliminary review of the State Board's

Ex. 5 - Deliberative

Narrative Flow Objective: *"Maintain flow conditions from the San Joaquin River Watershed to the Delta at Vernalis, together with other reasonably controllable measures in the San Joaquin River Watershed, sufficient to support and maintain the natural production of viable native San Joaquin River watershed fish populations migrating through the Delta. Flow conditions that reasonably contribute toward maintaining viable native migratory San Joaquin River fish populations include, but may not be limited to, flows that mimic the natural hydrographic conditions to which native fish species are adapted, including the relative magnitude, duration, timing, and spatial extent of flows as they would naturally occur. Indicators of viability include abundance, spatial extent or distribution, genetic and life history diversity, migratory pathways, and productivity."*

Program of Implementation for the Stanislaus, Tuolumne, and Merced Rivers:

*"The program of implementation includes specific flow requirements and other measures to implement the narrative objective. The Preferred LSJR Alternative program of implementation has a minimum flow requirement of **35 percent unimpaired flow February-June** for [three salmon-bearing tributaries]; the Stanislaus, Tuolumne, and Merced Rivers; and a baseflow of **1,000 cfs on the SJR at Vernalis.**" [emphasis added]*

Revised southern Delta Salinity Objective:

The State Water Board proposes to relax the southern Delta salinity objective by raising the maximum concentration from 0.7 dS/m (monthly average) to 1.0 dS/m (monthly average). This objective protects water quality for agricultural use but it also provides protection for aquatic life by requiring more freshwater in the Delta.